

February 27, 2009

Via ECFS

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Suite TW-A325
Washington, DC 20554

Re: ATC Outdoor DAS, LLC (Form 499 Filer ID 827386)

**2008 CPNI Compliance Certification
EB Docket No. 06-36**

Dear Ms. Dortch:

On behalf of ATC Outdoor DAS, LLC, and pursuant to 47 C.F.R. § 64.2009(e), enclosed is the company's 2008 CPNI Certification.

Respectfully submitted,

Brett P. Ferenczak



Enclosure

cc: Best Copy and Printing, Inc. (via e-mail)

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Walnut Creek
Washington

Bingham McCutchen LLP
2020 K Street NW
Washington, DC
20006-1806

202.373.6000
202.373.6001
bingham.com

A/72858782.1



ANNUAL 64.2009(e) CPNI CERTIFICATION
E.B. DOCKET 06-36

ANNUAL 64.2009(e) CPNI CERTIFICATION FOR THE YEAR 2008.

DATE FILED: FEBRUARY 27, 2009

NAME OF COMPANY COVERED BY THIS CERTIFICATION: ATC OUTDOOR DAS, LLC

FORM 499 FILER ID: 827386

NAME OF SIGNATORY: Gerard Ainsztein

TITLE OF SIGNATORY: Senior Vice President, DAS Solutions, ATC Outdoor DAS, LLC

I, Gerard Ainsztein, certify that I am an officer of ATC Outdoor DAS, LLC (the "Company"), and acting as an agent for the Company, that I have personal knowledge of the information in this Certification and accompanying Statement of CPNI Procedures and Compliance and that, in the event the Company has access to CPNI in the future, the Company will establish operating procedures that are adequate to ensure compliance with the Commission's CPNI rules. *See* 47 C.F.R. § 64.2001 *et seq.*

Attached to this certification is an accompanying statement explaining that the Company does not currently have access to CPNI and, if the Company has access to CPNI in the future, the procedures the Company will establish to ensure that the Company is in compliance with the requirements set forth in Section 64.2001 *et seq.* of the Commission's rules.

The Company has not taken any actions (proceedings instituted or petitions filed by a company at either state commissions, the court system, or at the Commission) against data brokers in the past year, nor did any pretexters attempt to access the Company's customers' CPNI.

The Company has not received any customer complaints in the past year concerning the unauthorized release of CPNI.

Sincerely,



Gerard Ainsztein
Senior Vice President, DAS Solutions, ATC Outdoor DAS, LLC

CERTIFICATION OF CPNI FILING
FEBRUARY 27, 2009
EB Docket No. 06-36; EB-06-TC-060

Statement of CPNI Procedures and Compliance

ATC Outdoor DAS, LLC (the "Company") is an infrastructure provider that provides wireless telecommunications carriers access to outdoor distributed antenna systems ("DAS"). As such, the Company is a carrier's carrier that does not provide any telecommunications services to retail end-users. The Company does not process, record, maintain or have access to any CPNI from its customers. Instead, the Company provides access to DAS allowing its customers to wirelessly transmit communications. Customers are charged a flat rate based on access to DAS. As such, the Company does not have access to any customer-specific information related to "the quantity, technical configuration, destination, location, and amount of use of a telecommunications service," *see* 47 U.S.C. § 222(h)(1)(A), nor does the Company provide telephone exchange or interexchange service. Further, the Company does not obtain CPNI regarding its carrier customers. For these reasons, the Company believes it is not subject to the CPNI rules. However, out of an abundance of caution, the Company is filing a Certification and this Statement of CPNI Procedures and Compliance.

In the event the Company changes or expands its service offerings and obtains access to CPNI in the future, the Company will adhere to the following procedures:

- The Company will not use or permit access to CPNI to market any services outside of the "total services approach" as specified in 47 CFR §64.2005. Nor will the Company allow affiliates or third parties access to CPNI for marketing-related purposes without obtaining the appropriate consent from its customers. If the Company elects to use CPNI in a manner that does require customer approval, it will follow the applicable rules set forth in 47 CFR §64.2001 *et seq.*, including the institution of operational procedures to ensure that the appropriate notification is provided and customer approval is obtained before CPNI is used or disclosed. The Company will develop and implement an appropriate tracking method to ensure that customers' CPNI approval status can be verified prior to using CPNI for marketing-related purposes. The Company will also adopt the requisite record-keeping requirements should they use CPNI in the future for marketing-related purposes.
- Consistent with the Commission's rules, the Company may use, disclose, and permit access to CPNI without customer approval for the purposes of: (1) billing and collecting for services rendered; (2) protecting the rights and property of the Company, other users, and other carriers from unlawful use; (3) providing inside wiring, installation, maintenance, and repair services; and (4) providing or marketing services that are within the same class of services to which the customer already subscribes.
- If the Company engages in marketing when a customer makes an inbound call to the Company, the Company will, in accordance with the CPNI rules, obtain a customer's oral authorization that the Company's customer service representatives may access a

customer's CPNI during the course of an inbound or outbound telephone conversation, solely for the duration of that conversation. Each such representative of the Company will be required to provide the disclosures demanded by Section 64.2008(c) of the CPNI rules including informing customers of their right to deny access to the CPNI before requesting this one-time consent.

- The Company will not provide CPNI without proper customer authentication and, if in the future the Company processes, records, maintains or has access to call detail records, the Company will either develop procedures in accordance with the rules to provide such information over the phone or will not provide call detail records over the phone. Instead, the Company may adopt a policy where call detail records will be provided exclusively via e-mail or U.S. mail, to the postal or electronic address of record. In order to authenticate a customer's identity prior to disclosing CPNI, the Company will authenticate the customer using a variety of methods. The Company will inform customers of change of address in a manner that conforms with the relevant rules.
- The Company will implement procedures to provide law enforcement with notice should a breach of CPNI occur. After notifying law enforcement and unless directed otherwise, the Company will notify affected customers. The Company will maintain a record of any CPNI-related breaches for a period of at least two years.
- The Company will provide training concerning CPNI compliance. All employees of the Company will be required to maintain the confidentiality of all information, including customer information that is obtained as a result of their employment by the Company. Employees of the Company who do not abide by these policies or otherwise permit the unauthorized use or disclosure of CPNI will be subject to discipline, including possible termination.